

REMARKS

The new claims are fully supported by the content of the original application as filed. Applicant refers, for example, to original claim 38 of the application as filed. Entry and reconsideration of the claims is requested.

In the Office Action, the Examiner required restriction to one of the following inventions under 35 U.S.C. §121:

I. Claims 32-34, drawn to a method for determining the efficacy of a medical treatment, comprising: measuring a characteristic of a single tissue area before and after a treatment.

II. Claims 35-38 and 41, drawn to a method for determining the efficacy of a medical treatment, comprising: measuring characteristics of two different tissue areas.

III. Claims 39 and 40, draw to an apparatus for determining the efficacy of a medical treatment.

In response, Applicant hereby elects, with traverse, the invention of Group I, corresponding to claims 32-34. It is also noted that these claims have been previously amended. Furthermore, Applicant reserves the right to file one or more divisional applications corresponding to non-elected claims.

The Examiner is thanked for the courtesy of a telephone interview on October 4, 2006 during which it was clarified that a reference in the Office Action on page 4, paragraph 7 should have referred to "Inventions II and III" instead of "I and III."

In support of the above-noted traversal, Applicant notes that the Examiner acknowledges that the methods of Groups I and II are "related" although no explanation is given as to the nature of the relationship recognized by the Examiner. Furthermore the Action argues that Groups I and II

are independent and distinct because they are not capable of use together. Applicant takes exception to this conclusion since the claims in both groups rely on the use of a transepithelial electrophysiological characteristic and there is nothing in the described methods that would preclude their use together, even though they are not obvious variants. In fact, Applicant refers to original claim 38 as support for the view that the methods can be used together. In further support of this view, Applicant has introduced new claims 42-45, which explicitly "integrate" of the subject matter of Group I and Group II; it is noted that such an integrated method is particularly advantageous.

In conclusion, it is respectfully suggested that the process or method inventions of Groups I and II are appropriately examined together.

In the event any fee is due in connection with the present response, the Examiner is authorized to charge Applicant's Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

By 

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